

**KUTAK ROCK LLP**

Jeremy S. Williams (VSB No. 77469)  
Brian H. Richardson (VSB No. 92477)  
901 East Byrd Street, Suite 1000  
Richmond, Virginia 23219  
Telephone: (804) 644-1700  
Facsimile: (804) 783-6192  
[Jeremy.Williams@kutakrock.com](mailto:Jeremy.Williams@kutakrock.com)  
[Brian.Richardson@kutakrock.com](mailto:Brian.Richardson@kutakrock.com)  
*Counsel for Peter J. Barrett, Trustee*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

In re:	)	
	)	Chapter
POTOMAC PILE DRIVER, LLC,	)	
	)	Case No. 17-34078 (KRH)
Debtor.	)	
	)	
PETER J. BARRETT, TRUSTEE	)	
	)	
Plaintiff,	)	
	)	
v.	)	Adv. Proc. No. 19-03079 (KRH)
	)	
BRAD MARTIN, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

**PLAINTIFF'S MOTION FOR CLERK'S ENTRY OF DEFAULT  
AGAINST POTOMAC PILE DRIVER, LLC, APD3, LLC, AND  
SHORELINE SERVICE AND DESIGN, LLC**

Peter J. Barrett (the "Trustee"), Chapter 7 Trustee for the Bankruptcy Estate of Potomac Pile Driver, LLC, by counsel, moves for the entry of default against Defendants Potomac Pile Driver, LLC ("Potomac"), APD3, LLC ("APD3"), and Shoreline Service and Design, LLC ("Shoreline" and together with Potomac and APD3, the "Defendants") pursuant to Rule 55 of the

Federal Rules of Procedure, as incorporated by Rule 7055 of the Federal Rules of Bankruptcy Procedure (the “Rule(s)”). In support thereof, the Trustee states as follows:

### **STATUS**

1. On September 6, 2019, the Trustee initiated this Adversary Proceeding and filed his Complaint against the Defendants [Docket No. 1] (the “Complaint”).

2. On September 10, 2019, the Clerk of this Court issued the Summons and Notice of Pre-Trial Conference to be served with the Complaint (the “Original Summons”) [Docket No. 2].

3. On October 18, 2019, at the request of Plaintiff, the Clerk of this Court issued the Alias Summons and Notice of Pre-Trial Conference to be served with the Complaint (the “Alias Summons”) [Docket No. 9].

4. On October 18, 2019, the Alias Summons and Complaint were served on Potomac, by first-class mail, pursuant to Rule 7004 and an affidavit was filed with the Court certifying that the Alias Summons and Complaint were properly and timely served in accordance with the Rules, and setting forth the method of service [Docket No. 15].

5. On October 25, 2019, the Alias Summons and Complaint were served on APD3 and Shoreline, by first-class mail, pursuant to Rule 7004 and an affidavit was filed with the Court certifying that the Alias Summons and Complaint were properly and timely served in accordance with the Rules, and setting forth the method of service [Docket No. 16].

6. Rule 7012 required each of the Defendants to file an answer or responsive pleading within 30 days from the issuance of the summons. With respect to the Defendants, the deadline to file an answer or responsive pleading to the Complaint was November 18, 2019.

7. On November 18, 2019, Robin McCormack, Jacob Lillard, and Brad Martin each filed their respective answers to the Complaint, appearing *pro se* in their individual capacity [Docket Nos. 18–20].

8. Each of the Defendants named herein as being in default is a limited liability company, and as such, is not entitled to appear *pro se*, but can only appear and file pleadings by and through counsel.

9. None of the Defendants have made an appearance by counsel in these proceedings.

10. Accordingly, each of the Defendants named herein have failed to timely file an answer or responsive pleading to the Complaint pursuant to Rule 7012.

11. None of the Defendants is a minor or incompetent person.

12. The Trustee is unable to determine the military status of the Defendants, pursuant to the Service Members Civil Relief Act of 2003, 50 U.S.C. Appendix §§ 501–596.

13. Pursuant to Rule 7055, the Trustee is entitled to have the Clerk of this Court enter default against the Defendants.

*[Remainder of page intentionally left blank]*

**WHEREFORE**, the Trustee requests the Clerk enter the Defendants' default as requested herein, against Potomac, APD3 and Shoreline.

Dated: December 11, 2019

**PETER J. BARRETT, TRUSTEE**

By: /s/ Brian H. Richardson  
Counsel

**KUTAK ROCK LLP**

Jeremy S. Williams (VSB No. 77469)  
Brian H. Richardson (VSB No. 92477)  
901 East Byrd Street, Suite 1000  
Richmond, Virginia 23219  
Telephone: (804) 644-1700  
Facsimile: (804) 783-6192  
[Jeremy.Williams@kutakrock.com](mailto:Jeremy.Williams@kutakrock.com)  
[Brian.Richardson@kutakrock.com](mailto:Brian.Richardson@kutakrock.com)  
*Counsel for Peter J. Barrett, Trustee*

**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury that on December 11, 2019, a copy of the foregoing document was served via first-class mail, postage prepaid, on the following:

APD3, LLC  
c/o Jacob Lillard, President/Member  
27 Third Street  
Colonial Beach, VA 22443

Potomac Pile Driver, LLC  
c/o Bianca Cook, Registered Agent  
103 Randolph Road  
Fredericksburg, VA 22405

Potomac Pile Driver, LLC  
c/o John C. Morgan Jr.,  
Counsel to the Debtor  
New Day Legal, PLLC  
98 Alexandria Turnpike, Suite 10  
Warrenton, VA 20186

Shoreline Service and Design, LLC  
c/o Christian B. Franklin, Registered Agent  
Parrish Snead Franklin Simpson  
910 Princess Anne St., 2nd Floor  
Fredericksburg, VA 22401

/s/ Brian H. Richardson

Counsel